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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/650,134	08/29/2000	Ronald Hage	C4007(C)	9257

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PATENT DEPARTMENT
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EXAMINER

DELCOTTO, GREGORY R

ART UNIT PAPER NUMBER

1751

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/650,134

Applicant(s)

HAGE ET AL.

Examiner

Gregory R. Del Cotto

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ed

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/3/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 18-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-16 and 18-25 are pending. Note that, Applicant's arguments and amendments filed 12/3/2003 have been entered.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/3/2003 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Note that, with respect to instant claim 1, the specification, as originally filed, provides no basis for "substantially free of aldehydes" as recited by the instant claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1, it is vague and indefinite in that it is unclear what is meant by "substantially free" with respect to the aldehydes. The term "substantially" in claim 1 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Note that, while the specification does provide a definition for "substantially free" with respect to the peroxygen compounds, it provides no such guidance or definition for "substantially free" with respect to aldehydes. For purposes of examination and consistent with the definition given for peroxy systems as defined in the specification, the Examiner asserts that "substantially free" with respect to the aldehyde component would permit the inclusion of relatively large amounts of aldehydes and would permit the inclusion of amounts as taught by '074.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4-6, 9-14, 16, 18-20, and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 97/38074.

'074 teaches a process for cleaning of a substrate comprising the steps of adding a molecular oxygen activating system to an aqueous wash liquor, containing a sufficient amount of molecular oxygen for obtaining observable cleaning, and cleaning the substrate with the wash liquor. See Abstract. The composition may be used for

cleaning fabrics. See page 3, lines 30-40. Transition metal bleach catalysts may also be added to the composition. See page 6, lines 15-25. Surfactants and builders may also be added to the composition. See page 11, line 10 to page 12, line 35.

Specifically, '074 teaches the use of manganese and iron catalysts wherein air was bubbled through a 250 ml solution containing the catalysts to bleach test cloths. The pH of the solution is 10. See page 17, lines 20-30. Accordingly, the broad teachings of '074 anticipate the material limitations of the instant claims.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 97/38074 for the reasons of record set forth in Paper #8.

Claims 1, 2, 4-14, 16, 18-20, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 95/34628 or WO 97/48787.

'628 teaches a bleach and oxidation catalyst comprising a catalytically active iron complex. See Abstract. The Fe-complex catalyst may be used in a bleaching system comprising a peroxy compound or a precursor thereof and is suitable for use in the washing and bleaching of substrates including laundry, dishwashing and hard surface cleaning. See page 4, lines 5-13. Note that, with respect to instant claims 7-9, '809 teaches complexes having the same general formula as recited by instant claims 7-9. See page 3, lines 6-36. The catalyst may be used in bleaching compositions containing a peroxy bleaching compound which is capable yielding hydrogen peroxide in aqueous solution. The amount of the peroxy bleaching compound used in the composition is generally in the amount from 5% to 35% by weight. See page 7, lines 19-36. The detergent bleach compositions may also contain a surfactant material and a detergent

builder. Detergent bleach compositions are effective over a wide pH-range of between 7 and 13. See page 6, line 35 to page 7, line 17.

'787 a bleach and oxidation catalyst comprising a catalytically active metal complex having a poly-dentate ligand containing at least 6 hetero atoms. Such metal complexes can activate hydrogen peroxide, peroxy acids, or **molecular oxygen** and have both favorable stain removal and remarkable dye transfer inhibition properties. See Abstract. Additionally, '787 teaches that the catalyst may be used in detergent formulations using molecular oxygen as the oxidant. See page 4, lines 5-10. Note that, the Examiner asserts that bleaching using molecular oxygen as taught by '787 would be the same as atmospheric oxygen as recited by the instant claims. The metal catalyst may be used in laundry, dishwashing and hard surface cleaning. See page 4, lines 10-15. Detergent compositions have a pH range of between 6 and 13. See page 8, lines 10-12. Additionally, the compositions may contain surfactants and detergent builders. See page 12, line 10 to page 14, line 30.

'628 or '787 are relied upon as set forth above. However, '628 or '787 do not specifically teach a bleaching composition as recited by the instant

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a bleaching composition as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of '628 or '787 suggest a bleaching composition as recited by the instant claims.

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Claims 1-16 and 18-25 are rejected under 35 U.S.C. 102(b) as being anticipated, or in the alternative, under 35 USC 103 as being obvious over EP 909,809.

'809 teaches a bleach and oxidation catalyst comprising a catalytically active iron complex including a defined pentadentate nitrogen containing ligand. See Abstract. Note that, with respect to instant claims 7-9, '809 teaches complexes having the same general formula as recited by instant claims 7-9. The most preferred ligands are N,N-bis(pyridin-2-yl-methyl)-1,1-bis(pyridin-2-yl)-1-aminoethane (MeN4Py). See page 4, lines 35-40. The peroxy bleaching compound used in the composition is a compound such as sodium perborate monohydrate, sodium perborate monohydrate, etc. and these compounds may be used in amounts from 5% to 35% by weight. See page 5, lines 15-28. Note that, with respect to instant claims 9-12, the Examiner asserts that these are product-by-process claims and that if the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process. In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fec. Cir. 1985). See MPEP 2113.

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Specifically, '809 teaches the bleaching activity of the Fe(MeN4Py) catalyst in the presence of a detergent on standard tea-stained cotton test cloths wherein the detergent contained the following ingredients and was dosed in water: 0.60 g/l sodium linear alkylbenzene sulphonate, 0.36 g/l sodium triphosphate, 0.44 g/l sodium carbonate, 0.20 g/l sodium disilicate, 0.67 g/l sodium sulphate, 0.20 g/l sodium perborate monohydrate, 0.06 g/l tetraacetylene diamine, less than 0.01 g/l Fe(MeN4Py), and 0.19 enzymes, fluoreser, SCMC, minors, moisture. This bleaching composition has a pH of around 10. See page 10, lines 1-25. Note that, the Examiner maintains that the complex taught by '809 would inherently catalyse bleaching of the stains by atmospheric oxygen because '809 teaches the same bleach catalyst complex as recited by the instant claims. Note that, "substantially devoid of peroxygen bleach" as recited by instant claims allows for large amounts of a bleaching agent as outlined in the instant specification.

Accordingly, the broad teachings of '809 appear to anticipate the material limitations of the instant claims.

Alternatively, even if the broad teachings of '809 are not sufficient to anticipate the material limitations of the instant claims, it would have been nonetheless obvious to one of ordinary skill in the art, at the time the invention was made, to arrive at the optimum amount of bleaching sourced from the air in order to provide the optimum bleaching properties to the composition because '809 teaches that the amount of peroxygen bleach added to the composition may be varied.

Response to Arguments

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Even though '074 teaches the use of aldehydes, the Examiner maintains that the instant claims do **not exclude** the use of aldehydes but only state that the complex catalyzes the bleaching of a substrate by atmospheric oxygen without the use or consumption of aldehydes. The instant claims are not worded in such a way that aldehydes are actually excluded from the compositions as recited by the instant claims; they claims are worded in such a way that catalyzing bleaching "without the use and consumption of aldehydes" is the statement of an inherent property of the bleach catalysts and not a negative limitation of the composition. Additionally, while Applicant has amended claim 1 to read that the composition is "substantially free of aldehydes", the Examiner asserts, as stated above in the rejection under 35 USC 112, second paragraph, that "substantially free of aldehydes" as recited by the instant claims would permit an amount of aldehydes as recited by the instant claims.

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Remaining references cited but not relied upon are considered to be cumulative to or less pertinent than those relied upon or discussed above.

Applicant is reminded that any evidence to be presented in accordance with 37 CFR 1.131 or 1.132 should be submitted before final rejection in order to be considered timely.

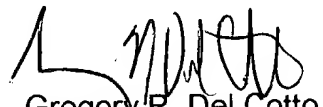
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571)

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272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory R. Del Cotto
Primary Examiner
Art Unit 1751

GRD
February 16, 2004